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Coors Distributing Company

5400 Pecos Street

Denver, Colorado 80221

(303) 433-6541

September 9, 2003

ATTN: TTB Notice #4
Chief, Regulations and Procedures Division
Alcohol and Tobacco Tax and Trade Bureau
PO Box 50221
Washington DC, 20091-0221

Dear Sir or Madam:

As Divisional Vice President and General Manager of Coors Distributing Company as well as a member of the Board of Directors for the CBDA, I support the proposed "0.5%" rule recently issued by the Tax and Trade Bureau in TTB Notice Number 4 of March 2003 regarding the alcohol content of Flavored Malt Beverages (FMBs). Distributors of beer are supplied with products that are labeled according to Federal requirements and we are learning that some of these "flavored malt beverages" contain spirits obtained by distillation. This is a problem with the current federal labeling requirements since beer distributors have no way of knowing when the government has approved the indirect addition, or mixing of distilled spirits into beer. Some people say that this problem has existed for years. That may be true for the people who kept secrets about how these products were made. But brewers and suppliers never tell the state government or local distributors what they put into the products, and distributors should not be responsible for knowing whether the label on these products meet both Federal and State requirements. If these products contain more than 0.5% distilled spirits then they should be labeled as distilled spirits. I encourage the TTB to act as fast as possible to get the right information about these products on the labels. The current situation may have been caused by a mistake or shortcoming in the past, but we need to go back to where we were before the problem arose because the current situation threatens a beer distributor's integrity and the distributor's state license to do business since our license only allows us to sell alcohol beverages that are beer, not spirits.

As a matter of background, please note that in Colorado distilled spirit beverages are called "Spirituous liquors" and the Colorado Liquor Code defines "Spirituous liquors" as "any alcohol beverage obtained by distillation, mixed with water and other substances in solution, and includes among other things brandy, rum, whiskey, gin, and every liquid or solid, patented or not, containing at least one-half of one percent alcohol by volume and which is fit for use for beverages purposes. Any liquid or solid containing beer or wine in combination with any other liquor, except as provided in subsections (19) and (39) of this section, shall not be construed to be fermented malt or malt or

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vinous liquor, but shall be Construed to be spirituous liquor." Perhaps the ATF was not aware that the spirits obtained by distillation that are added to beer through flavorings are still "spirits". The Colorado Liquor Code seems to be pretty clear about spirits that end up in an alcohol beverage, even when the spirits are in combination with beer in the beverage.

I don't believe the State of Colorado knew what was in these products when the ATF first approved the labels we see in the marketplace. I support the TTB taking an active stance to correct the problem before states like Colorado have to handle the situation on their own. But, to be effective, the TTB needs to clean up this matter in a way that is consistent with the state laws so that distributors can continue to do business without being worried about how these products are made or labeled. This The proposed TTB rule would take care of the problems in Colorado since it would require that no more than 0.5% of the alcohol content of FMBs be derived from distilled alcohol in order to be classified as "beer"

The CBDA believes this the proposed 0.5% rule as is a critical step toward consistent classification of these products and all malt beverages. While states have traditionally had independent regulatory powers on how to classify alcohol products, they have followed Federal policy in their decisions related to taxation, licensing, and distribution of alcohol. Colorado is no exception. Federal leadership in this important area will likely be followed at the state level and will work to maintain an orderly marketplace throughout Colorado and the rest of the USA.

The Colorado Beer Distributors Association and its members support the proposed rule, and respectfully requests that the TTB adopts TTB Notice Number 4.

Sincerely,

William W. Sutphen
CBDA Board of Directors Member
DVP and General Manager, Coors Distributing Co.